

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

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JACOB SMITH,	)	Case No. 2:20-cv-03755
Plaintiff,	)	Judge Edmund A. Sargus
v.	)	Magistrate Judge Kimberly A. Jolson
FIRSTENERGY CORP., <i>et al.</i> ,	)	
Defendants.	)	
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JAMES BULDAS,	)	Case No. 2:20-cv-03987
Plaintiff,	)	Judge Edmund A. Sargus
v.	)	Magistrate Judge Kimberly A. Jolson
FIRSTENERGY CORP., <i>et al.</i> ,	)	
Defendants.	)	
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BRIAN HUDDOCK and CAMEO	)	Case No. 2:20-cv-03954
COUNTERTOPS, INC.,	)	
Plaintiff,	)	Judge Edmund A. Sargus
v.	)	Magistrate Judge Kimberly A. Jolson
FIRSTENERGY CORP., <i>et al.</i> ,	)	
Defendants.	)	

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**DECLARATION OF ERIC J. MILLER IN SUPPORT OF  
PLAINTIFFS' MOTION FOR ORDER TO AUTHORIZE  
DISTRIBUTION OF SETTLEMENT FUNDS**

I, Eric J. Miller, hereby declare as follows:

1. I am a Senior Vice President with A.B. Data, Ltd. ("A.B. Data"). I am fully familiar with the facts contained herein based upon my personal knowledge, and if called

as a witness, could and would testify competently thereto. I submit this declaration at the request of Plaintiffs' Counsel in connection with the above-captioned action (the "Action").

2. As detailed in the Declaration of Eric J. Miller Regarding (a) Dissemination of the Notice and (b) Report on Requests for Exclusion and Objections Received to Date dated August 31, 2022 (the "Notice Declaration"), and pursuant to the Court's Order Preliminary Approving Class Plaintiffs' Settlement with Defendants dated June 22, 2022, A.B. Data was responsible for effectuating the Court-approved Notice Plan. A.B. Data's duties include, among other things: (i) disseminating notice to potential Settlement Class members; (ii) establishing and maintaining a toll-free telephone helpline and website dedicated to this Action; and (iii) distributing Settlement Funds to Settlement Class Members.

3. As detailed in the Notice Declaration, the Notice Plan featured a combination of: i) direct notice by electronic mail ("email") or postcard to potential Settlement Class Members; ii) a digital advertising campaign on numerous digital and social media platforms; iii) a news release disseminated via *PR Newswire*; and iv) a toll-free telephone number and case-specific website to address potential Settlement Class Member inquiries.

4. As further described in the Notice Declaration, A.B. Data sent Notice of the Proposed Settlement by email to 1,223,446 Settlement Class Members and by U.S. first class mail to 1,236,129 Settlement Class Members.

5. A.B. Data has acted as a repository for potential Settlement Class Members' inquiries and communications in the Action. The Notice instructed Settlement Class Members to contact the Settlement Administrator to provide any updates to their email address or mailing address. A.B. Data has updated Settlement Class Member records in the database in all instances that Settlement Class Members have contacted A.B. Data with such requests.

6. The Settlement Class excludes (i) Defendants and alleged co-conspirators and their respective parents, subsidiaries, and affiliates; and (ii) any Settlement Class member who timely and validly elects to be excluded from the Settlement Class. A.B. Data, in consultation with Class Counsel and Defense Counsel, reviewed the records in the database to identify excluded parties and "flag" the records as excluded parties resulting in their removal from the final list of eligible Settlement Class Members. As a result of these efforts, 86 records were "flagged" as excluded parties. A.B. Data provided Class Counsel with a report listing the identified excluded parties for final review and approval.

7. In addition to the excluded parties, A.B. Data was contacted regarding two individuals who were deceased and the recipient of the notice did not wish to participate. The records for these two individuals were also "flagged" to be removed from participation in the distribution of the Settlement Funds.

8. As Settlement Administrator, A.B. Data expected to be reasonably compensated for its services and reimbursed for its expenses. A.B. Data had been in contact with Class Counsel during the Settlement Administration process and worked closely with them to efficiently process and plan for distribution of the Settlement Funds.

To date, A.B. Data has incurred fees and expenses in the amount of \$633,095.04. To date, A.B. Data has been paid a total of \$617,370.53 from the Settlement Funds in accordance with the Court's prior approval orders, leaving an outstanding balance of \$15,724.51. A.B. Data estimates that it will incur, in connection with the distribution of the net proceeds of the Settlement Funds, an additional \$523,749.00 to finalize the distribution. If at the completion of the administration the total fees and expenses are less than the estimated amount \$523,749.00, the difference shall be included in any potential second distribution to Settlement Class Members. These past and expected future expenses are summarized as follows:

Description	Qty	Price	Past Invoices	Projected Qty	Projected Price	Projected Invoices
800 Number Charges (Per Minute)	3,260	\$0.12	\$391.20	9,600	\$0.12	\$1,152.00
Advanced Address Update	77,491	\$0.25	\$19,372.75	951	\$1.10	\$1,046.10
Check Processing Fee (per check)	9513	\$0.15		9,513	\$0.15	\$1,426.95
CSRs/Live Operators (Per Hour)	252.5	\$48.00	\$12,120.00	360	\$48.00	\$17,280.00
Digital Payments	1,588,808	\$0.20		1,588,808	\$0.20	\$317,761.60
Distribution Setup	1	\$1,500.00		1	\$1,500.00	\$1,500.00
Document Imaging	616	\$0.15	\$92.40			
Electronic Storage (Per Page/Per Month)	9		\$743.95			
Interactive Voice Response (IVR) (Per Minute)	1,725	\$0.44	\$759.00	3,200	\$0.44	\$1,408.00
IVR and Line Maintenance (Monthly)	10	\$190.00	\$1,900.00	12	\$190.00	\$2,280.00
Media Notices	1	\$15,000.00	\$15,000.00			
NCOA Address Updating (Minimum Charge)	2		\$2,375.00			
Post Office Box Rental/Renewal (annual)	1	\$1,250.00		1	\$1,250.00	\$1,250.00
Postage			\$417,956.69			
Postage - Checks	10,464	\$0.55		10,464	\$0.55	\$5,755.20

Prepare and QC Settlement Award (hourly)	20	\$175.00		20	\$175.00	\$3,500.00
Prepare and Send Email Notices	1,726,662	\$0.00	\$5,179.99			
Printing and Mailing of Checks	9,513	\$0.30		9,513	\$0.30	\$2,853.90
Printing and Mailing of Debit Cards	621,235	\$0.20		621,235	\$0.20	\$124,247.00
Printing and Mailing of Postcard Notices	1,270,000		\$88,918.00			
Project Management (Hourly)	62	\$165.00	\$10,230.00	60	\$165.00	\$9,900.00
Project/Database Setup (One-Time Fee)	1	\$1,500.00	\$1,500.00			
QSF Income Tax Reporting 2022 (Per Year)	1	\$2,250.00	\$2,250.00	2	\$2,250.00	\$4,500.00
Quality Assurance (Hourly)	0.5	\$150.00	\$75.00	40	\$150.00	\$6,000.00
Receipt and Processing of Undeliverable Mail	65,852		\$17,832.20	95	\$3.25	\$308.75
Reissuance of Checks to Updated Addresses	951	\$4.50		951	\$4.50	\$4,279.50
Remailing of Notice Packets to Updated Addresses	31,558	\$0.25	\$7,889.50			
Staff (Hourly)	103	\$95.00	\$9,785.00	40	\$95.00	\$3,800.00
System Support (Hourly)	69	\$175.00	\$12,075.00	60	\$175.00	\$10,500.00
Toll-Free Telephone Line Setup (One-Time Fee)	1	\$1,000.00	\$1,000.00			
Transperfect Translations	1	\$649.36	\$649.36			
Website Maintenance/Hosting (Monthly)	10	\$250.00	\$2,500.00	12	\$250.00	\$3,000.00
Website Setup and Design (One-Time Fee)	1	\$2,500.00	\$2,500.00			
<b>TOTAL:</b>			<b>\$633,095.04</b>			<b>\$523,749.00</b>

9. As of May 23, 2023, the balance of the Settlement Funds is \$35,493,876.29.

Pursuant to the Plan of Allocation and Distribution of Settlement Funds, payments to eligible members of the Settlement Class will be a proportion of the amount of each member's total fees and charges paid pursuant to HB 6 during the Class Period in relation

to such total amount paid by all Settlement Class members, but not to exceed 100% of the amount paid by the members of the Settlement Class. Settlement Class Members did not need to do anything to receive their share of the Settlement Funds. Upon approval of the Court, payments will be issued automatically.

10. A.B. Data performed an additional review of the eligible Settlement Class Member records to identify any additional records that could be rolled up where the name and address and/or email address were the same. As a result, there are 2,219,556 eligible Settlement Class Members with fees and charges paid pursuant to HB 6 during the Class Period totaling \$107,452,398.39.

11. Upon approval of the Court, and consistent with the Plan of Allocation, A.B. Data, in consultation with Class Counsel, recommends the following Distribution Plan:

- a. establishment of a reserve of \$523,749.00 to pay A.B. Data's estimated fees and expenses;
- b. Settlement Class Members whose payments calculate to less than \$1.00 will be increased to a minimum payment of \$1.00;
- c. the remaining net proceeds of the Settlement Funds will be allocated on a *pro rata* basis to eligible Settlement Class Members in accordance with the Plan of Allocation approved by the Court;
- d. A.B. Data will coordinate issuing digital payments to Settlement Class Members whose payments are from \$1.00 up to \$250.00 and have a valid email address;

- e. A.B. Data will coordinate issuing physical debit cards to Settlement Class Members whose payments are from \$1.00 up to \$250.00 and do not have a valid email address;
- f. A.B. Data will coordinate issuing physical checks to Settlement Class Members whose payments are greater than \$250.00. The checks will have a stale date of 120 days to encourage Settlement Class members to promptly cash their distribution checks and to avoid or reduce future expenses related to unpaid distributions;
- g. in the event that a payment to a Settlement Class Members is undeliverable whether by mail or email, a second attempt will be made to reissue the payment to the Settlement Class Member;
- h. if there is a balance remaining in the Settlement Funds after reasonable efforts to have Settlement Class Members negotiate their payment, and at least 180 days from the date of the initial distribution, and after any additional taxes, costs, and administration fees, A.B. Data will, in consultation with Class Counsel, conduct a second distribution if feasible and economical. A.B. Data will redistribute the remaining funds, along with any remaining balance of the reserve on a *pro rata* basis after reserving any additional taxes, costs, and administration fees, to Settlement Class Members who negotiated their initial payments and who would receive at least \$25.00 from such redistribution; and

i. at such time as Class Counsel, in consultation with A.B. Data, determines that further distribution of the funds remaining in the Settlement Funds is not cost-effective, Class Counsel shall petition the Court to disburse the remaining funds *cy pres*.

12. A.B Data respectfully requests that the Court enter an Order approving the proposed distribution plan and approving payment to it in the sum of \$15,724.51 for services performed and reimbursement of expenses incurred.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 1, 2023.



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Eric J. Miller